Remarks

A. Pending Claims

Claims 1-3 were rejected. Claims 4, 23 and 27 have been canceled. Claims 4-26 have been withdrawn. Claims 28-30 are new. Claims 1-22 and 24-26 have been amended. Claims 13, 5-22, 24-26, and 28-30 are pending.

B. Amendments

The above-captioned application was filed on July 6, 2005. At the time of filing, a preliminary amendment was filed and received by the PTO (see first listing of claims in PAIR,).

Applicant's agent, Kay Colapret, contacted the Examiner on November 27, 2007. During the teleconference, it was agreed by both parties that the listing of claims would reflect the amendments presented in the preliminary amendment. The Examiner also indicated that the next office action would be a non-final rejection.

The amendments to claims reflect the amendments to the claims as presented in the preliminary amendment. Additional amendments were made for clarification purposes. New claims 28-30 were added in the preliminary amendment. No new matter has been added.

Applicant respectfully requests the reinstatement and examination of claims 4-22, 24-26, and 28-30.

Amendments to the specification are for clarification purposes and were submitted in the preliminary amendment filed July 6, 2005. No new matter has been added.

C. Priority under 35 U.S.C. §119

Applicant respectfully request that the claim for foreign priority be acknowledged. This Application is a national phase application based on PCT/EP2004/000072 which claims priority to United Kingdom Application No. 0300374.6 filed on January 8, 2003 and German Application No. 103 26 977.0 filed on June 12, 2003.

D. The Claims Are Not Anticipated by Ross et al. Pursuant To 35 U.S.C. §102(b)

Claims 1-3 were rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 6,380,295 to Ross et al. (hereinafter "Ross"). Applicant respectfully disagrees with these rejections.

The standard for "anticipation" is one of fairly strict identity. A claim can only be anticipated if each and every element set forth in the claims is found to be either expressly or inherently described in the cited art. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 728, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP §2131.

Claim 1 describes a composition having a combination of features including, but not limited to, the features of: "a nanoclay comprising a swellable inorganic layered material which has been modified by at least one siloxane component and by at least one non-anionic fatty acid derivative which has at least one aliphatic or cyclic radical having from 6 to 32 carbons".

Applicant's specification states,

> For the purpose of this application, the term nanoclay is always understood to mean organically intercalated phyllosilicates (layered silicates). This corresponds to the interpretation generally used in this sector. These nanoclays are commercially available. The name "Nanofil" is used by Südchemie AG to market a montmorillonite –base nanoclay. Examples are "Nanofil 15" and "Nanofil 5", these having been organically intercalated with disteraroyldimethylammonium chloride. A product from the US company Elementis Corp. With the name "EA 108" is based on hectorite.
> (English Translation of, Specification, page 1 through page 2).

Applicant's specification further states:

> The at least one non-anionic organic component which has at least one aliphatic or cyclic radical having from 6 to 32 carbon atoms preferably from 8 to 22 carbon atoms, in particular from 10 to 18 carbon atoms, is preferably a fatty acid derivative from one of the substance classes below:
>
> 1. Fatty alcohols...
> 2. Fatty aldehydes, fatty ketones...
> 3. Fatty alcohol polyglycol ether...
> 4. Fatty amines...
> 5. Mono-, di-, and triglyceride esters...
> 6. Fatty acid alkanolamides...
> 7. Fatty acid amides...
> 8. Alkyl esters of fatty acids...
> 9. Fatty acid glucamides...
> 10. Waxes
> 11. Dicarboxylic esters...
> 12. Fatty acid soaps insoluble in water...
> 13. Montan waxes...
> 14. Paraffins and PE waxes.

(Specification, English translation, page 6, line 20 through page 8, line 14).

Ross does not appear to teach or suggest the combinations of the features of the claim, including, but not limited to, the feature of modifying an organically intercalated phyllosilicate with "at least one non-anionic fatty acid derivative which has at least one aliphatic or cyclic radical having from 6 to 32 carbons." Ross appears to teach intercalating a polymer and a quaternary ammonium salt with clay to form a nanocomposite. For example, Ross states:

> Materials suitable for element (c) of this invention include polyurethanes; polyamides; polyesters; polycarbonates; polyepoxides and polyolefins. Such materials also include polyethers (polymers and copolymers) based on ethylene oxide, butylene oxide, propylene oxide, phenols and bisphenols; polyesters (polymers and copolymers) based on aliphatic and aromatic diols and polyurethanes based on aliphatic and aromatic diisocyanates, polyamides (polymers and copolymers) based on aliphatic and aromatic diamines, and polycarbonates (polymers and copolymers) based on aliphatic or aromatic diols; polycarboimides (polymers and copolymers) based on tetrabasic acids and diamines, vinyl polymers and copolymers based on vinyl monomers, styrene and derivatives of styrene; acrylic polymers and copolymers based on acrylic monomers; copolymers based on styrene, vinyl and acrylic monomers; polyolefin

> polymers and copolymers based on ethylene, propylene and other alphaolefin monomers; polymers and copolymers based on dienes, isobutylenes and the like; and copolymers based on dienes, styrene, acryl and vinyl monomers. The definition of element c) does not include quaternary ammonium compounds.
>
> Specific preferred examples of useful non-anionic organic materials include THIXATROL VF-10 and THIXATROL VF-20 which are liquid polyester amide copolymers made by RHEOX. Examples of other specific materials are polyvinylpyrrolidone (PVP) or its hydrolysis product, polyvinyl alcohol (PVA), polymethacrylamide, poly(N,N-dimethylacrylamide), poly(N-isopropylacrylamide), poly(N-acetamidacryl amide), poly(N-acetimidomethacrylamide), polyvinyloxazolidone, and polyvinylmethyl oxazolidone, polyoxypropylene, polyoxyethylene and copolymers thereof.
> (Ross, col. 8, lines 5-35).

Ross appears to be modifying an untreated clay, whereas applicant's claims are directed to modification of an "organically intercalated phyllosilicate." For at least the reasons set forth above, the combination of the features of claim 1 including, but not limited to, the feature of: "an organically intercalated phyllosilicate, wherein the organically intercalated phyllosilicate has been modified by treatment with at least one siloxane component and at least one non-anionic fatty acid derivative" does not appear to be taught or suggested by Ross.

Applicant submits claim 1 and the claims dependent thereon (claims 2-22, 24-26, and 28-30) are patentable over Ross.

E. Prior Art Made of Record

The Office Action states,

> The prior art of record and not relied upon is considered pertinent to applicant's disclosure. Chaiko, Chaiko et al., Fang, Cody and Knudson are cited to show[sic] structure similar to the claimed invention.

Applicant submits the prior art does not teach or suggest the features of the claims.

F. Additional Remarks

Applicant believes no fees are due with the filing of this response. If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are due, the Commissioner is hereby authorized to deduct said fees from Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 50-1505/5628-26320/EBM.

Respectfully submitted,

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